

REMARKS

This communication is in response to the Official Action mailed December 15, 2004, requiring applicants to restrict the claims to one of allegedly two distinct groups of inventions. Applicants provisionally elect, with traverse, Group I, which includes claims 1-7 and 15-17. Applicants have cancelled claims 8-14 and have added claims 18-26 and respectfully request examination of the newly added claims also.

Applicants respectfully submit that newly presented claims 18-26 do not constitute the addition of new matter. In particular, claim 18 recites all the limitations included in original claim 8 and further recites "a clamp-connecting member coupled to said housing and operable to move between a first position proximate the ear lobe of the user such that the electronic headset is secured against the ear of the user and the second position such that the electronic headset may be removed from the ear of the user." Additional support for claim 18 may also be found by reference to, for example, paragraphs [0061] to [0063] of the detailed description.

Newly presented claims 19 and 20 depend from claim 18 and recite additional features associated with the claimed invention. Support for newly presented claims 19 and 20 may be found by reference to, for example, paragraphs [0061] through [0063] of the detailed description. As such, applicants respectfully submit that claims 19 and 20 do not constitute the addition of new matter.

Newly presented claims 21 through 26 respectively recite the subject matter previously recited in original claims 9 through 14. As such, applicants respectfully submit that newly presented claims 21 through 26 do not constitute the addition of new matter.

Applicants respectfully traverse the Examiner's restriction requirement. The criteria for restriction between

patentively distinct inventions require that there "be a serious burden on the Examiner." (M.P.E.P. §803.01, pg. 800-4). In this regard, applicants respectfully submit that no serious burden is placed on the Examiner since the Examiner has indicated that the search required for examination of the allegedly distinct inventions comprises searching two separate sub-classes in the same class, i.e., sub-classes 370 and 381 in class 381.

Inasmuch as the Examiner has indicated that claims directed to structures or structural elements that include a clamp-connected headset comprise Group I, applicants also respectfully submit that newly presented claims 18 through 26 should also be included in Group I.

Although applicants respectfully believe that restriction is not proper in this case, applicants have nonetheless cancelled claims 8 through 14 thereby provisionally electing claims 1 through 7 and 15 through 17 for examination in this application. In addition, applicants have added new claims 18-26. Applicants respectfully request that the Examiner examine all the claims currently pending in the application. Applicants also respectfully submit that these claims are in condition for allowance. Early and favorable action is therefore earnestly requested.

Applicants also reserve the right to file divisional applications to any original claim not examined in this application.

Application No.: 10/664,102

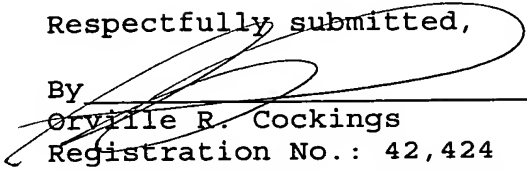
Docket No.: MERMIS 3.0-004

In the event that any fees are due in connection with the present response, the Examiner is authorized to charge Deposit Account No. 12-1095 therefor.

Dated: January 18, 2005

Respectfully submitted,

By


Orville R. Cockings

Registration No.: 42,424

LERNER, DAVID, LITTENBERG,

KRUMHOLZ & MENTLIK, LLP

600 South Avenue West

Westfield, New Jersey 07090

(908) 654-5000

Attorney for Applicant

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